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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,847	01/31/2001	Harald Krondorfer	1466	6258

7590 04/25/2005  
STRIKER, STRIKER & STENBY  
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EXAMINER

WEEKS, GLORIA R

ART UNIT PAPER NUMBER

3721

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/774,847	<b>Applicant(s)</b> KRONDORFER ET AL.	
	<b>Examiner</b> Gloria R Weeks	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-25 is/are pending in the application.
- 4a) Of the above claim(s) 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-17 and 19-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/18/04</u> . | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

1. Applicant's election of claims 11-17 and 19-25 in the reply filed on January 28, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-17 and 19-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11 recites the phrases "an additional mounting part", "an additional elastic element" and "an additional movable safety element) in claim 1 are inappropriate since there is no antecedent bases necessitating the use of the term "additional".

Claim 23 recites the limitation "corresponding chambers" in line 4. There is insufficient antecedent basis for this limitation in the claim. Examiner is unsure as to what structure defines a chamber.

Claim 24 recites the limitation "unloaded" in line 5. It is unclear as to how the term "unloaded" structurally defines the safety element.

Claim 25 recites the phrase "safety element which is redundant and functionless" in lined 5-6 which renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 11-13, 15, 17, 19, 20, 22, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Kato (USPN 4,086,970).

Regarding claims 11-13, 15, 17, 19, 20, 22, 24 and 25, Kato discloses a hand power tool (column 1 lines 6-10), comprising a housing (1); at least one handle having at least one gripping part (14); a mounting part (11) having two sleeves (area surrounding elastic element extensions into mounting part) and a disc (12); at least one elastic, vibration damping element (8) mounted on the mounting part (11), the at least one gripping part (14) being mounted on the housing (1) through the elastic element (8) and through the mounting part (11); at least one movable and non-rigid safety element (7) through which the gripping part (14) is connected with the mounting part (11), the safety element (7) being movable during a predetermined operation relative to the gripping part (13) to avoid a passage of vibration through the safety element (7), wherein the elastic element (8) surrounds the safety element (7). The safety element (7) of Kato is specifically disclosed as being a cable <sup>1</sup>, also defined as a rope <sup>2</sup>, for protecting terminals of the power source.

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<sup>1</sup> **ca·ble** (kā'bel) *noun* **1.a.** A strong, large-diameter, heavy steel or fiber rope. **b.** Something that resembles such steel or fiber rope. *The American Heritage® Dictionary of the English Language, Third Edition* copyright © 1992 by Houghton Mifflin Company. Electronic version licensed from INSO Corporation; further reproduction and distribution restricted in accordance with the Copyright Law of the United States. All rights reserved.

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6. Claims 11, 14-17, 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilhelm (USPN 1,358,486).

In reference to claims 11, 14-17, 19 and 21, Wilhelm discloses a hand power tool, comprising a housing (A); at least one handle having at least one gripping part (L) and a mounting part (F), at least one elastic, vibration damping element (R) mounted on the mounting part (F), the gripping part (L) being mounted on the housing (A) through the elastic, vibration damping element (R) and the mounting part (F); and at least one movable, rigid safety element (G) through which the gripping part (L) is connected with the mounting part (F), the safety element (G) being movable relative to the gripping part (L), wherein the safety element (G) is within the elastic element (R) and in the form of a rigid rod.

***Allowable Subject Matter***

7. Claim 23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The art of record considered as a whole, alone or in combination, neither anticipates nor renders obvious a hand power tool comprising a handle attached to a housing through a mounting part and an elastic element wherein two sleeves are mounted on the mounting part, the two sleeves being provided with first and second sleeve discs, and safety element in the form of a rod having two ends, the two ends being provided with first and second rod discs.

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<sup>2</sup>**rope** (rop) *noun* 1.A flexible, heavy cord of tightly intertwined hemp or other fiber *The American Heritage® Dictionary of the English Language, Third Edition* copyright © 1992 by Houghton Mifflin Company. Electronic

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*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on 8:30 am - 7:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
grw  
April 21, 2005

Gloria R Weeks  
Examiner  
Art Unit 3721

  
**SCOTT A. SMITH**  
**PRIMARY EXAMINER**